E
664
.B856
M5

Memorial
of
Benjamin Helm Bristow

LIBRARY OF CONGRESS
1800

Class E 664
Book .B856M5

v.

WAR DEPARTMENT.
RECEIVED
APR 29 1899
LIBRARY.

WAR DEPARTMENT,
RECEIVED
APR 29 1899
LIBRARY.

MEMORIAL

OF

BENJAMIN HELM BRISTOW

B. K. Bruton

MEMORIAL

OF

BENJAMIN HELM BRISTOW

PRIVATELY PRINTED

MDCCCXCVII

E664
.B856M5

University Press:
John Wilson and Son, Cambridge, U.S.A.

ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK.

AT a meeting of the Association of the Bar of the City of New York, held on December 8, 1896, the following memorial, prepared by Mr. David Willcox, was adopted by the Association for insertion in its Memorial Book.

The family of Mr Bristow was English and Welsh in its origin, but for several generations had been settled in Virginia and Kentucky. His father, Francis Marion Bristow, was long the leading lawyer of Elkton, Todd County, Kentucky. He was also a member of the lower house of the Legislature in 1831 and 1832; a State Senator in 1846; a member of the Constitutional Convention in 1849, and Representative in Congress from the Third

District of the State in 1854–55, and again in 1859–61. He was a Whig, and after the dissolution of that party, a Unionist.

Benjamin Helm Bristow was born at Elkton, on June 20, 1832. He was graduated from Jefferson College, Cannonsburg, Pennsylvania, in 1851. After studying law in his father's office, Mr. Bristow was admitted to the bar in 1853, and for a time practised at Elkton in partnership with his father. Upon November 21, 1854, at Elizabethtown, Kentucky, he was married to Abbie Slaughter Briscoe. Their two children are now Nannie Bristow Draper, wife of Eben S. Draper, of Hopedale, Massachusetts, and William B. Bristow, of New York. In 1858 Mr. Bristow removed to Hopkinsville, Kentucky, and formed a partnership with Judge R. T. Petrie, and afterward with Mr. John Feland, which continued until he entered the volunteer service.

At the outbreak of the Rebellion, as Kentucky was a slave state, the sympathies of

many of its citizens were with the seceding states. Mr. Bristow, however, animated by the anti-slavery principles learned from his father, and by the spirit of patriotism which was always characteristic, at once gave himself up to the work of preserving the Union. He aided largely in recruiting the Twenty-fifth Kentucky Infantry, and on September 20, 1861, was mustered into the service as its lieutenant-colonel. With his regiment he took part in the engagements about Fort Henry and Fort Donelson, and in the battle of Shiloh. In the latter action he was seriously wounded, and the regiment was so reduced in numbers that it became necessary to consolidate it with another regiment. After recovering, Mr. Bristow devoted himself to raising the Eighth Kentucky Cavalry. That regiment was mustered into the service for one year, on September 8, 1862, with Mr. Bristow as its lieutenant-colonel, and on April 1, 1863, he was commissioned as its colonel. With the

regiment he was engaged in many cavalry skirmishes in Kentucky in 1862 and 1863. When General John H. Morgan of the Confederate cavalry made his greatest raid through Kentucky, Indiana, and Ohio, Mr. Bristow and his regiment were engaged in pursuit, and were present at the capture of Morgan and his command near Wellsville, Ohio, on July 26, 1863. Mr. Bristow's decision of character and complete self-possession in the presence of danger admirably fitted him for a cavalry officer, and his military service was successful and distinguished. A brevet as brigadier-general was offered to him, but as his service had then terminated, he declined the honorary rank.

In August, 1863, while Mr. Bristow was engaged in this active service, he was elected to represent Christian County in the State Senate of Kentucky. This was done without his knowledge. The emancipation proclamation of January 1, 1863, had been met in Kentucky by organized and determined opposi-

tion upon the part of some of the so-called Unionists, led by ex-Gov. Charles A. Wickliffe. The political situation was very critical, for it was feared that this movement might lead, even at that late day, to some effort to arbitrarily drag Kentucky into secession, as had been done in the case of Tennessee. Those who were in good faith supporting the National Government, deemed it of great importance that Mr. Bristow's well-known personal force in argument and in counsel should be employed in combating any such scheme in the legislature. Inasmuch as the term of service of his regiment expired in the month following, and as his election seemed to be a call to duty, Mr. Bristow reluctantly gave up further military service and accepted the position of Senator. He never ceased, however, to feel that interest in the events and the actors in the great struggle to preserve the Union, which is peculiarly intense in those who themselves have had their part in its trials and its victories. He

always remained a member of the societies of the Armies of the Cumberland and the Tennessee. Many a friendship which he formed in the field continued without interruption so long as life endured. And when the end came, none were more heartfelt mourners than those who, amid the stirring events of active service, had learned to know both the high standards of action and the personal charm of character which always made him a chosen companion among his fellow-men.

Mr. Bristow's term as State Senator began upon December 7, 1863. During its continuance, in the various struggles which took place regarding the efforts of the National Government to suppress the Rebellion, Mr. Bristow was the leader of those who were constantly in favor of giving to the Government the utmost measure of support. Among other things, he advocated and voted for the unconditional ratification of the thirteenth amendment to the Constitution, providing for the abolition of slavery. He was

active, too, in the presidential election of 1864, speaking and writing in favor of the re-election of Mr. Lincoln.

As the exigency to meet which he had accepted the election no longer existed, Mr. Bristow resigned from the Senate in 1865, and removed to Louisville. On November 2, 1865, he was appointed to the office of Assistant United States Attorney for the district of Kentucky. Upon the special recommendation of Hon. James Speed, who was then Attorney-General, Mr. Bristow was, on May 4, 1866, appointed to the office of United States Attorney for that district. By reason of the return of those who had been in sympathy with the Rebellion, a condition of great disorder existed throughout the State. The Ku-Klux-Klan was constantly perpetrating acts of personal violence upon those, both white and black, who had supported the cause of the Union, and frauds upon the revenue were the general practice. It therefore became Mr. Bristow's official duty

to enforce through the courts the national statutes protecting all citizens in the enjoyment of their civil rights and securing to the Government the efficient collection of its necessary revenue. He addressed himself to this work with his customary vigor, and succeeded, during his term of office, in establishing a condition of civil order and obedience to law then unequalled in any other part of the country which had been so affected by the influences of the Rebellion.

The Republican members of the legislature, forty-one in number, on January 30, 1867, voted for Mr. Bristow as their choice for the office of United States Senator from Kentucky. Inasmuch, however, as that party was in the minority, the Democratic candidate, Garret Davis, was elected.

Upon January 1, 1870, Mr. Bristow resigned from the office of United States Attorney and formed a partnership for practice of the law with Hon. John M. Harlan, now one of the Justices

of the United States Supreme Court. Shortly thereafter Congress passed an act creating the office of Solicitor-General. The efficiency with which Mr. Bristow had discharged the duties of his office as United States Attorney had attracted the attention of President Grant. Accordingly on October 4, 1870, without solicitation upon his part, he was appointed as first incumbent of the office of Solicitor-General of the United States. While he held this office he was actively engaged in writing opinions, and more especially in arguing causes in behalf of the Government before the Supreme Court. These covered the entire field of the Federal jurisdiction, including many important constitutional causes. Mr. Bristow thus acquired a high reputation, which always continued thereafter, for thorough familiarity with the national jurisprudence, and for effectiveness in discussing the principles upon which it is based and the rules of law established by its adjudications.

Upon November 12, 1872, Mr. Bristow resigned the office of Solicitor-General and accepted an appointment as general counsel of the Texas and Pacific Railway Company. He found, however, that the duties of this office were largely administrative rather than professional, and, animated by that love for the pursuits of his profession which he always showed, he soon resigned this position and resumed practice of the law at Louisville. Upon December 2, 1873, Mr. Bristow was nominated by President Grant to the Senate, as Attorney-General of the United States "in case the present Attorney-General (Hon. George H. Williams) "be confirmed as Chief Justice of the United States." Mr. Williams, however, was not confirmed, so that the nomination of Mr. Bristow did not become effective.

Upon June 3, 1874, Mr. Bristow was appointed by President Grant to the office of Secretary of the Treasury. His administration was characterized by great advances in the

economy and efficiency with which the public business was transacted, and by vigorous and unflinching enforcement of the laws concerning collection of the internal revenue. The soundness of the views expressed and the recommendations made by him regarding the evils of a paper currency and the necessity of resumption and continuance of specie payments, has been fully shown by the history of the country since that time. Indeed those views may be said to have but recently received the overwhelming approval of the nation. Time will not permit a detailed statement of the events of the two busy years during which Mr. Bristow held this high office. It will be interesting, however, to quote to some extent the expressions of his official reports upon the subjects to which reference has just been made.

In his official report for 1874 Mr. Bristow said, regarding the existing paper currency: "The universal use of and reliance upon such

a currency tends to blunt the moral sense and impair the natural self-dependence of the people, and trains them to the belief that the Government must directly assist their individual fortunes and business, help them in their personal affairs, and enable them to discharge their debts by partial payment. This inconvertible paper currency begets the delusion that the remedy for private pecuniary distress is in legislative measures, and makes the people unmindful of the fact that the true remedy is in greater production and less spending, and that real prosperity comes only from individual effort and thrift. When exchanges are again made in coin or in a currency convertible into it at the will of the holder, this truth will be understood and acted upon."

Again, in his official report for 1875, Mr. Bristow said: "The circumstances attending the issue of the United States notes now in circulation impress upon the Government a peculiar obligation to provide for their speedy and cer-

tain redemption in coin. They were issued in the exercise of a power which can be called into use only in a time of supreme necessity, and were paid out for the support of an army composed of brave and patriotic citizens who had responded to the call of their country in the hour of its extreme peril. To suffer a promise made at such a time, and under such circumstances, to be dishonored by subsequent indifference or non-performance, would be little better than open repudiation, and would affect injuriously our national name and credit. It is worthy of note that for the most part those who now oppose the redemption of legal-tender notes, and who ask for a further issue, and continued and indefinite re-issue of the notes now in circulation, were most strenuous in their opposition to such issues during the civil war. The acts authorizing such issues were denounced as in violation of sound principles of finance and not warranted by the Constitution. . . . Those who opposed such issues

at the time of supreme necessity and insist upon further issues when the emergency has passed away, put themselves in the attitude of opposing war measures in the midst of war, and advocating them in time of profound peace."

So, too, in an oration which Mr. Bristow delivered upon Decoration Day, May 29, 1875, at the Cave Hill Cemetery, at Louisville, he expressed views which applied with great force to the future at that time, and which have not yet lost their application to the condition of public sentiment. "May we not," he said, "look forward with assured confidence to the time in the near future when all intelligent men, North and South, will not only accept the results of the late conflict, but will recognize the blessings that flow from it, and admit that any other issue would have been an irreparable calamity to both sections of the country? While we must differ from those who sought to dissolve the Union, and look from

a different standpoint upon the history of the struggle that ensued, we may safely concede to them the right to hold such opinions as they like in respect of the past, and claim from them only a cheerful and hearty loyalty to the present and future. And why should this not be so? Are we not bound together by ties of consanguinity and community of material interests? Whatever promotes discord or weakens our common government, threatens danger and disaster to all alike; and whatever gives strength and prosperity to our free institutions promises blessings to the people in every part of the country, and to their posterity."

His official experience made Mr. Bristow a firm believer in the principles of civil service reform. In the early days of the movement in that direction he became acquainted with the late George William Curtis, to whom the present success of the reform owes so much. Each, thereafter, entertained the highest regard for the other, based in no small degree upon

the agreement of their views on this important question. While Mr. Curtis continued as president of the National Civil Service Reform Association, Mr. Bristow was constantly one of its Vice-Presidents. In all ways within his power he supported the efforts of the association, and none rejoiced more sincerely than he in the successive steps forward made by the cause of reform in the civil service.

In the Winter and Spring of 1876, Mr. Bristow was prominently mentioned in connection with the Republican nomination for the Presidency. Accordingly, at the National Convention of that party held at Cincinnati, upon June 15, 1876, his name was presented as a candidate for the choice of the Convention. He was placed in nomination by John M. Harlan, of Kentucky, and was seconded by Luke P. Poland, of Vermont, George William Curtis, of New York, and Richard H. Dana, Jr., of Massachusetts. The total vote of the convention was 754. Upon the first ballot James G. Blaine, of Maine,

received 285 votes; Oliver P. Morton, of Indiana, received 124 votes; Benjamin H. Bristow, of Kentucky, received 113 votes, and the remaining 232 votes were divided among four other candidates. The vote for Mr. Bristow increased gradually until the fourth ballot, which stood, Blaine, 292; Bristow, 126; Morton, 108; all others, 228. Upon the seventh ballot the opposition to Mr. Blaine was concentrated in support of Mr. Hayes, of Ohio, who received 384 votes, and was thus nominated. The vote for Mr. Blaine on that ballot was 351, while the remaining 21 delegates, including those from his own State of Kentucky, still adhered to Mr. Bristow as their choice.

By reason of his conscientious views of official duty, Mr. Bristow always found the cares of office irksome. With the view of relief from further responsibility of this sort, under date of June 17, 1876, he addressed to President Grant a letter tendering his resignation as Secretary of the Treasury. To this the President replied

in an autograph letter, which has not been heretofore published, dated June 19, 1876. This acknowledged receipt of the resignation, to take effect upon the twentieth of the month, and added: "In accepting it for that date, permit me to hope that our personal relations may continue as heretofore, and that you may find that peace in private life denied to any one occupying your present official position."

Mr. Bristow's official career, therefore, covered in all a period of but fifteen years, of which the first two were spent in active service in the field. During the remainder of that period, it was not continuous, but was from time to time broken by his voluntary resignation from official station. He never sought for office, and, so far as was in his power, discountenanced all efforts of friends in that direction. Animated by the feeling that a good citizen should always hold himself subject to the call of duty toward his fellow-citizens, when that call seemed addressed to him he was ready to serve, both in

war and in peace. But when the necessity for such sacrifice of personal inclination seemed to be past, no one was so happy as he to retire to the repose of private life and to the regular practice of his profession. In them he always found his truest satisfaction.

Upon the termination of his service as Secretary of the Treasury, Mr. Bristow returned to Louisville. In the Autumn of 1878, however, he removed to New York, and upon October 16, 1878, formed a partnership with William Peet, Henry L. Burnett, William S. Opdyke, and David Willcox, under the firm name of Bristow, Peet, Burnett, & Opdyke. Thereafter he continued a member of this firm and its successors, Bristow, Peet, & Opdyke, and Bristow, Opdyke, & Willcox. From that time forward he constantly shunned official position and devoted himself steadily to practice of the law. In 1879, Mr. Bristow became a member of the Association of the Bar of the City of New York, and had the honor to serve, in 1882, as a member

of its Judiciary Committee; from 1883 to 1885, inclusive, as a member of its Executive Committee; and in 1887 and 1888, and again in 1895, as one of its Vice-Presidents. In 1879, Mr. Bristow was elected as the second President of the American Bar Association, and on August 18, 1880, he delivered at Saratoga the annual president's address. In December, 1895, President Cleveland tendered to him an appointment as a member of the Venezuela Boundary Commission; but for personal reasons Mr. Bristow was unable to accept the position.

In the course of his diversified professional career, extending over forty-three years, Mr. Bristow had occasion to become familiar with many branches of the law and to appear before the courts in many parts of the country. He was engaged in numerous important causes, not only in the courts of New York, but of other states as well. His advice was much sought by reason both of his familiarity with legal principles, and also of his keen appreciation of

human nature. As already said, however, he was pre-eminent especially on account of his knowledge of the Federal jurisprudence. In the national courts he was peculiarly at home. His first appearance in the United States Supreme Court was in 1870, in the case of United States *v.* Hodson (10 Wallace, 395), and his last appearance there was in 1895, in the Income Tax cases (Pollock and Hyde *v.* Trust Companies, 157 U. S. 429, and 158 U. S. 601). His last appearance in court was on May 13, 1896, before the United States Circuit Court of Appeals for the Fourth Circuit, as counsel for the appellee in the case of the Southern Railway Company, appellant, against the Carnegie Steel Company, Limited. This cause was decided in favor of the appellee, upon November 10, 1896, many months after Mr. Bristow's death.

Mr. Bristow's arguments were based upon thorough preparation. Without uselessly consuming time, he addressed himself to the decisive questions in the case at bar. He had a

voice of singular charm, together with entire ease in delivery and dignified urbanity of manner. These qualities, joined with a firm grasp of legal principles and strict integrity and accuracy in stating facts, made him an advocate to whom the courts listened with especial pleasure and confidence. He was thus always in position to render the highest service to the interests committed to his charge.

Both by constant reading and by wide acquaintance with his contemporaries, Mr. Bristow had acquired great familiarity with the history of the country and the characters and achievements of its leading citizens. He took pleasure in the consideration and exposition of the principles, both written and unwritten, upon which constitutional popular government is based. No one more than he was interested in the recent contest, of which he saw the beginning, to preserve the honor of the nation and the liberty of the individual against the encroachments of repudiation and the tyranny

of ignorance. No one would have rejoiced more sincerely than he in the demonstration finally made at the polls of the capacity of the people to govern themselves. But this it was not to be his fortune to witness.

Mr. Bristow died at New York, after a short illness, upon June 22, 1896. Amid the grassy slopes and shady trees of Woodlawn he lies at rest. But in the memory of those whose pleasure it was to know him, he still lives and will live as one who, with rugged independence, constantly adhered to the highest standards of professional and personal conduct, and who at the same time, by the extent of his information, the breadth of his experience, the justice of his sentiments, and the geniality of his humor, made his society a never failing delight.

UNION CLUB, OF NEW YORK CITY.

At the time of his death, Mr. Bristow was one of the Governors of the Union Club of New York. At a meeting held upon October 14, 1896, the Governors adopted the following Resolution, prepared by Mr. Clarence A. Seward, the President of the Club.

The sudden withdrawal from our limited number of one of our associates, by a death so unexpected as to be virtually instantaneous, may well justify us in pausing for a moment in the orderly discharge of our official duties to place upon our records a brief tribute of respect to his character and memory.

Benjamin H. Bristow was with us at the last June meeting. He was then apparently in full health, and interested in pending questions. We heard that he was ill, and then we were startled by the swift announcement that the

thread of life had snapped and that he had gone forever.

Gifted by nature with a physique which may well be called superb, educated in all that a professional gentleman may properly require, bearing himself with a grace and dignity which made him notable among men and peers, — he commanded the respect and esteem of all who knew him, even of those who might differ in judgment and opinion.

What he believed, he felt; and what he felt, he spoke and acted, — promptly, vigorously, and with conscientious candor.

Loyalty was a cardinal principle in his most chivalrous nature. Born in a Southern State, and amid influences which were peculiar to the locality, he stood by his country and supported its Government in the hour of its peril. Transferred to high official position, he carried with him the same loyalty to his chief. Misunder-

stood and misrepresented, the loyalty still remained, and, seeking neither vindication nor justification, he went to his grave in silence, sustained by the consciousness of the absolute rectitude of all of his official acts.

An innate and sterling honesty prevented him from discovering that a public place might possibly be converted into a source of personal wealth.

In the more subtle and delicate relations of social and personal life, as guide, companion and familiar friend, the winsomeness of his character was most apparent, and thereby were formed those cords of friendship which survive even the triumph of death.

Gentle, affectionate, and considerate to the last degree, no claim ever passed unrecognized, no service unacknowledged. A warmer heart or a warmer hand were never chilled by the coldness of the grave.

He was able in all that he undertook. He was prominent to a degree which justified an aspiration for high political preferment. That it was not gratified but verifies the experience of the ability and prominence of many who have gone before, and of many who will come afterwards.

For twenty years he was a stanch and steadfast member of our Club, whose varied circles welcomed his presence and appreciated and prized his companionship. He was twice a member of its Governing Committee, and as such his courtesy and fidelity were appreciated by all.

The surviving members of that Committee enter upon their minutes this manifestation of their profound regret that they shall no longer know the touch of the vanished hand, nor hear again the voice that is hushed.

THE BAR OF LOUISVILLE.

At a meeting of the bar of Louisville, held in the United States Court, June 30th, 1896, to take action on the death of General B. H. Bristow, the following resolutions were adopted: —

Resolved, That we, the members of the Bench and Bar of Louisville, deeply feeling the loss of our friend and brother, General Bristow, desire to formally testify our appreciation of his worth.

As a citizen, he was intensely loyal and patriotic; as a member of this community, he was respected and beloved for his courtesy, kindness, and rigid honesty. As an army officer, he was brave and ever ready to perform his duties. As a civil officer, in times when it became necessary to antagonize his friends and fellow-Kentuckians, he rendered services as District Attorney for this Federal District, faithfully, with zeal and ability, tempered by kindness and feeling. As a member of this Bar he ranked among the foremost of his profession, and his removal from this city

was a marked loss to the local Bar and to the community. His career as a lawyer was always marked by a close study of the law, a faithful attention to and vigorous action in the interest of his clients.

His behavior toward the Bench and his brethren at the Bar was a notable and happy union of dignity and courtesy.

Resolved, That the Committee on Resolutions appointed at this meeting are directed to present this memorial to the Federal and State courts in this city, with the request that they be spread upon their respective records, and that a copy thereof shall be sent to General Bristow's family.

War Department Library
Washington, D. C.

No. 214

Losses or injuries must be promptly adjusted.

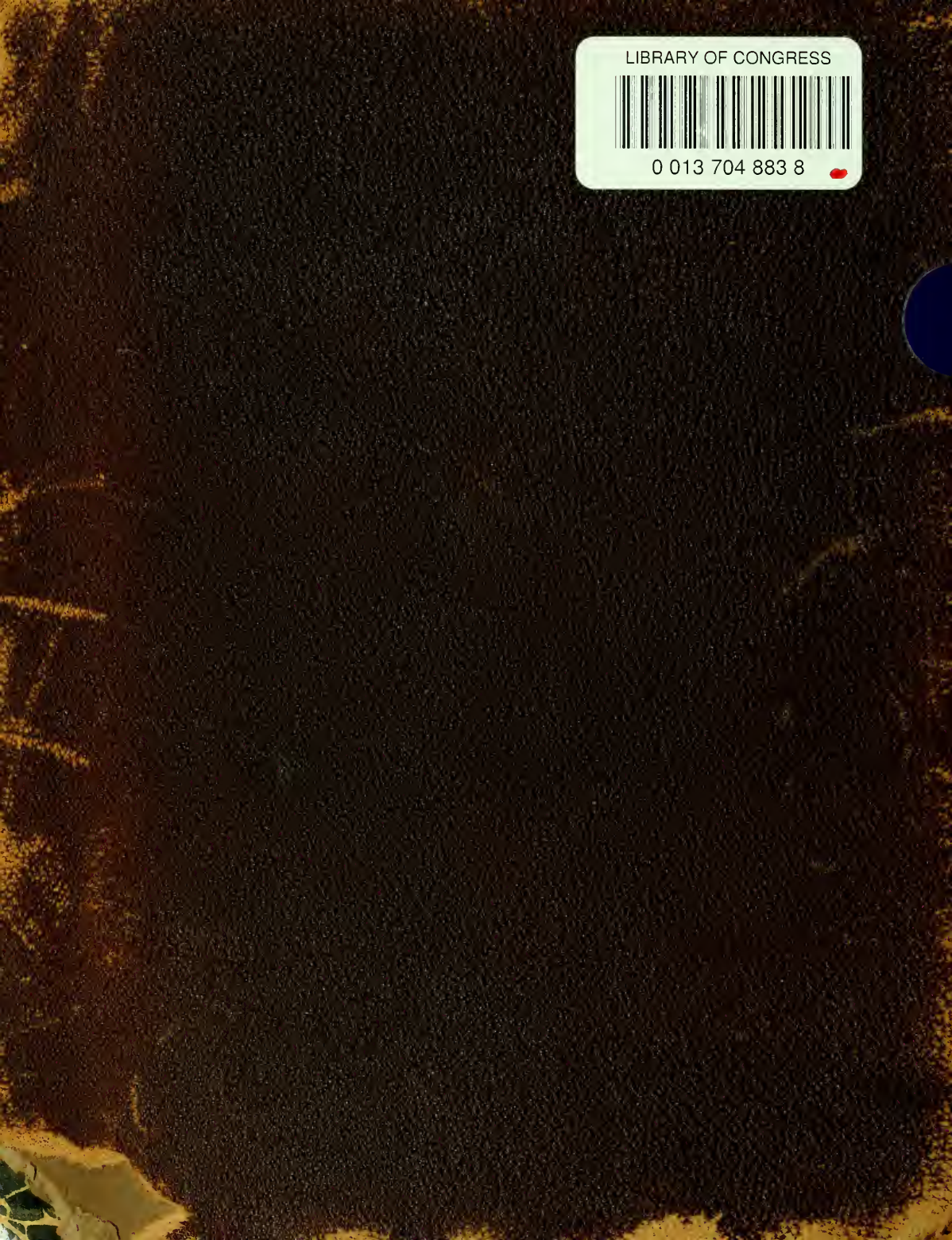
No books issued during the month of August.

Time Limits: Old books, two weeks subject to renewal at the option of the Librarian.

New books, one week only.

ACME LIBRARY CARD POCKET
Made by LIBRARY BUREAU, Boston

KEEP YOUR CARD IN THIS POCKET


LIBRARY OF CONGRESS
0 013 704 883 8